

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

CRP.No. 961 of 2006()

OP(EA) NO.205/2002 of ADDL.DISTRICT COURT, ALAPPUZHA

REVISION PETITIONER: PETITIONER:

ABDUL SAMAD, S/O.MUHAMMED KUNJU,
SURAJ, PAINKUZHI MURI,
OACHIRA VILLAGE, KARUNAGAPPALLY TALUK,
NOW RESIDING AT K.K.BUILDING, OACHIRA.

BY ADV. SMT.S.JASMINE

RESPONDENTS: RESPONDENTS:

1. POWER GRID CORPORATION OF INDIA LTD.,
NANGIARKULANGARA P.O., HARIPAD,
REPRESENTED BY ITS MANAGING DIRECTOR.

2. KERALA STATE ELECTRICITY BOARD,
THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.

R1 BY ADV. SRI. K.P.DANDAPANI (SR.)

R2 BY ADV. SRI.C.K.KARUNAKARAN, SC,KSEB

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 04/12/2007 ALONG WITH C.R.P.NO.962 OF 2006, C.R.P.NO.
172 OF 2007 AND C.R.P.NO.230 OF 2007, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

KSS

M.N. KRISHNAN, J.
= = = = =
C.R.P. NOs. 961 & 962/06
and C.R.P. Nos.172 & 230 OF 2007
= = = = =
Dated this the 4th day of December, 2007.

O R D E R

These revision petitions are preferred against the common order passed in O.P.(E.A.)205/02 and O.P.(E.A.) 612/02 of the Addl. District Judge, Allappuzha. C.R.P.Nos. 172 and 230/07 are filed by the respondent and the other two petitions are filed by the petitioner in the case. The grievance of the petitioner before the Court below is that the compensation awarded is inadequate and there is a mistake committed by the Court below in considering the extent of land. There is also calculation mistake and the Court was not right in fixing the land value as it is inadequate.

2. On the other hand the respondents before the Court below would contend that the amount awarded is excessive and the petitioner therein are not entitled to the compensation as claimed by them. The learned counsel for the revision petitioner in CRP Nos. 172 & 230/07 has brought

to my notice that the Court below has followed the dictum laid down by this Court in ***Kumba Amma v. K.S.E.B. (2000 (1) KLT 542)*** whereby 5% annuity is taken as the return. It is submitted by the learned counsel that this matter has been considered by the Apex Court in the decision reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1)*** and the Apex Court had directed this Court to consider the matter afresh and has stated that every case depends upon the facts and circumstances of each case. How the matter has to be approached is laid down by the Apex Court from the paragraph,

“The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of

the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

3. So, in the light of this pronouncement it is necessary to consider each case separately in the sense that the facts and circumstances of each case will have a direct bearing in determining the compensation. It may require additional oral as well as documentary evidence. Since I am remitting back the matter to the Court below for fresh consideration the contentions raised by the petitioner before that Court regarding the mistake in the extent of land, calculation mistake, inadequacy of land value and if any other contention which they want to raise can also be raised before

**CRP NOs. 961 & 962/06 and
172 & 230/07**

-:4:-

the Court below. Therefore the orders under challenge are set aside and the matters are remitted back to the Court below for fresh consideration by permitting the parties to adduce both oral and documentary evidence on the basis of the decision referred to above and on relevant facts. Parties are directed to appear before the Court below on 16.1.2008.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-